IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 693 OF 2000

M/s. ICDS Limited. .... Petitioners.

Versus

M/s. RSL Industries Ltd..... .... Respondent.

Mr. S. P. Bharati for the Petitioners.

CORAM: A. M. KHANWILKAR, J.

DATE : 2ND AUGUST, 2005

P.C.:

Heard Counsel for the Petitioners. None appears for the Respondents, though served. No reply has been filed opposing this petition.

2. The Petitioners are a financial institution. The Petitioners provided Hire Purchase facility to the Respondent Company as requested by them in respect of pollution control equipment. The Respondent Company was liable to pay the outstanding amount to the Petitioners along with interest in the sum of Rs.46,76,818.40 which consisted of Rs.21,41,760/- being balance under Hire Purchase Agreement and Rs.25,35,058.40 as overdue compensation charges under the terms of the agreement. As the amount was not received inspite of repeated

reminders, the Petitioners issued statutory notice on 10th December, 1999 which was duly served upon the Respondent Company. No reply was given to this statutory notice.

3. In the circumstances, the present petition under Sections 433 and 434 of the Companies Act came to be filed by the Petitioners on 7th April, 2000. This petition was admitted on 21st February, 2001. The Petition has been duly advertised and published. It is stated across the Bar that even thereafter no attempt was made by the Respondent Company to offer any amount much less huge outstanding claim of the Petitioners, as mentioned earlier, nor any reply has been filed controverting the assertion raised in the petition. In other words, the assertion made in the petition, which are supported by the documents placed on record, have remained unchallenged. It necessary follows that the Respondent Company has failed to rebut. In that sense the legal presumption against the Respondent Company arises that it is unable to pay its debts. In that situation, this Court has no option but to allow the prayer of the Petitioner for winding up of the Respondent Company.

4. Accordingly, this petition is made absolute in terms of prayer clauses (a) and (b).

Sd/-

(A.M.KHANWILKAR, J.)